

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

Mary Linda Reed and  
Richard Reed

v.

Civil No. 12-cv-164-JD

City of Portsmouth

Procedural Order

Mary Linda and Richard Reed brought a negligence claim and a claim for loss of consortium against the City of Portsmouth, New Hampshire, after Mary Linda tripped in a Portsmouth park and injured her right foot and ankle. On December 13, 2012, Portsmouth moved for summary judgment. On January 8, 2013, the Reeds filed an assented-to motion for an extension of time to respond to the motion for summary judgment.

In the motion for an extension of time, the Reeds stated that they had propounded interrogatories to Portsmouth three weeks before January 8, 2013, and had not then received the answers. The Reeds asked that the deadline for their response to Portsmouth's motion for summary judgment be extended to allow them to have the interrogatory answers before filing their response. Specifically, the Reeds asked that they be allowed to file their response to the motion for summary judgment within thirty days after they received Portsmouth's answers. Counsel

for the Reeds proposed that he would notify the court "by appropriate pleading on the day he receives the defendant's interrogatory answers so that this Court will then know the actual deadline for the plaintiffs' responsive pleadings."<sup>1</sup> The assented-to motion was granted on January 9, 2013.

To date, the Reeds' counsel has not notified the court that he has received Portsmouth's answers to the interrogatories. Based on the Reeds' motion for an extension of time, Portsmouth's answers were due around January 18, 2013. Fed. R. Civ. P. 33 (b) (2). Nothing has been filed by either the Reeds or Portsmouth to indicate that any delay has occurred or that any dispute has arisen about the interrogatories or the answers. Therefore, the court assumes that the Reeds received Portsmouth's answers to their interrogatories on or before January 18, 2013. Based on the assented-to motion, the Reeds agreed to file their response within thirty days of receiving the answers.

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<sup>1</sup>A response to a motion for summary judgment is not a pleading. See Fed. R. Civ. P. 8.

Conclusion

For the foregoing reasons, the Reeds shall file their response to Portsmouth's motion for summary judgment **on or before February 22, 2013.**

SO ORDERED.

  
Joseph A. DiClerico, Jr.  
United States District Judge

February 6, 2013

cc: Peter E. Hutchins, Esquire  
William G. Scott, Esquire